

SUMMARY: This document requests comments on a petition for rule making filed on behalf of James Kampschroer, requesting the allotment of Channel 278A to Cambria, California, as that community's second local FM service. Coordinates used for this proposal are North Latitude 35-33-54 and West Longitude 121-04-48.

DATES: Comments must be filed on or before March 16, 1995, and reply comments on or before March 31, 1995.

ADDRESSES: Secretary, Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Margaret L. Tobey, Esq., Akin, Gump, Strauss, Hauer & Feld, 1333 New Hampshire Avenue, NW., Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95-9, adopted January 11, 1995, and released January 23, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95-1952 Filed 1-25-95; 8:45 am]

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47 CFR Part 73

[MM Docket No. 95-8; RM-8563]

Radio Broadcasting Services; Tompkinsville, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Falcon Broadcasters proposing the allotment of Channel 274A at Tompkinsville, Kentucky, as the community's second local FM transmission service. An engineering analysis has determined that Channel 274A can be allotted to Tompkinsville, Kentucky, in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.5 kilometers (5.9 miles) southeast to avoid short-spacings to vacant Channel 273C3, Crossville, Tennessee, Station WYCQ(FM), Channel 275C1, Shelbyville, Tennessee, and Station WTKY(FM), Channel 221A, Tompkinsville, Kentucky. The coordinates for Channel 274A at Tompkinsville are North Latitude 36-39-55 and West Longitude 85-35-51.

DATES: Comments must be filed on or before March 16, 1995 and reply comments on or before March 31, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Bradford D. Carey, Esq., Hardy & Carey, L.L.P., 111 Veterans Memorial Blvd., Suite 255, Metairie, Louisiana (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95-8, adopted January 11, 1995, and released January 23, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed

Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95-1951 Filed 1-25-95; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AD06

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Brother's Island Tuatara

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine endangered status for the Brother's Island tuatara (*Sphenodon guntheri*), a reptile of New Zealand. Although already legally covered by an endangered classification, this species previously was considered part of the related and more widespread tuatara, *Sphenodon punctatus*. Both species are threatened by various factors, especially predation from introduced rats. This proposal, if made final, would continue the protection of the Endangered Species Act of 1973, as amended (Act), for the Brother's Island tuatara.

DATES: Comments on the proposed rule must be submitted by April 26, 1995. Public hearing requests must be received by March 13, 1995.

ADDRESSES: Comments, information, and questions should be submitted to the Chief, Office of Scientific Authority; Mail Stop: Room 725, Arlington Square; U.S. Fish and Wildlife Service; Washington, D.C. 20240 (FAX number 703-358-2276). Express and messenger-delivered mail should be addressed to the Office of Scientific Authority; Room 750, 4401 North Fairfax Drive; Arlington, Virginia 22203. Comments and materials received will be available

for public inspection, by appointment, from 8:00 a.m. to 4:00 p.m., Monday through Friday, at the Arlington, Virginia address.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address (phone 703-358-1708).

SUPPLEMENTARY INFORMATION

Background

Tuataras are a unique group of lizardlike reptiles now restricted to New Zealand and represented by the single genus *Sphenodon*. Because of excessive human hunting and predation by introduced animals, especially rats, tuataras are now found only on various small islands off the coast of the two main islands of New Zealand. For many years, the prevailing view among zoologists was that the living tuataras represented only the single species *Sphenodon punctatus*, and that was the only species on the U.S. List of Endangered and Threatened Wildlife (June 2, 1970; 35 FR 8495).

A recent paper (Daugherty, C.H., A. Cree, J.M. Hay, and M.B. Thompson, 1990, "Neglected taxonomy and continuing extinctions of tuatara," *Nature*: 347:177-179) pointed out that, based on a morphological and genetic analysis, a second species, *S. guntheri*, survived on North Brother Island in Cook Strait. *S. guntheri* actually had been first described in 1877, but over time had come to be regarded as just a component of *S. punctatus*. The population of tuatara on North Brother Island was known at the time that *S. punctatus* was listed as endangered pursuant to the Act and was considered to be a population of *S. punctatus*. The recognition of *S. guntheri* as a distinct species may provide it with increased conservation attention, thereby helping to ensure its continued survival on the one small island from which it is known.

The above technical paper explaining the status of *S. guntheri* was only recently brought to the attention of the U.S. Fish and Wildlife Service (Service) through the kindness of Ms. Cheri L. Hosley of Brownstown, Michigan. Subsequently, the Service contacted several authorities, who supported recognition of *S. guntheri* as a distinct species, and also the Government of New Zealand, which responded favorably. Finally, the World Conservation Union's 1994 IUCN Red List of Threatened Animals designates *S. guntheri* as a full species and as endangered.

The above information has persuaded the Service of the need to distinguish *S.*

guntheri as a separate species on the List of Endangered and Threatened Wildlife, and to classify it there as endangered, together with the species *S. punctatus*. It is emphasized that the reptiles included within *S. guntheri* are already legally covered by an endangered species classification and will remain so until a final decision on this proposal. This proposal does not impact or otherwise change the legal status of either species and does not affect the kinds of activities that are permitted or prohibited.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be endangered or threatened due to one or more of the following five factors described in Section 4(a)(1). These factors and their application to the Brother's Island tuatara (*Sphenodon guntheri*) are as follows (information from Daugherty *et al.* 1990, as indicated above):

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* *Sphenodon guntheri* is known only from North Brother Island in Cook Strait, New Zealand. The island has an area of only about 10 acres (4 hectares), and the tuatara population is restricted to only about 4.2 acres (1.7 hectares) of scrub habitat on top of the island. The population consists of fewer than 300 adults.

Introduced rats, rabbits, goats, and other animals have damaged habitat of other tuatara populations and could potentially do the same on North Brother Island if *S. guntheri* is not recognized as needing special conservation attention.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not currently known to be a problem. However, automation of the island lighthouse in 1990 led to departure of the resident keepers who had deterred illegal landings and poaching for 123 years. The very small tuatara population could thus be vulnerable to human hunting and harassment.

C. *Disease or predation.* Predation by introduced rats, dogs, cats, and pigs have been a severe problem for other tuatara populations. Deliberate or accidental introduction of even a few such animals on North Brother Island could be disastrous for the tiny tuatara

population there. Departure of the lighthouse keepers and failure to recognize *S. guntheri* as a unique species warranting special conservation attention could open the way for such a disaster.

D. *The inadequacy of existing regulatory mechanisms.* Although all tuataras have long received complete legal protection, there has been no recognition of separate and highly restricted species or subspecies, such as *S. guntheri*, that might require special protection and management in order to survive. The departure of the lighthouse keepers from North Brother Island in 1990 has made *S. guntheri* especially vulnerable in this regard.

E. *Other natural or manmade factors affecting its continued existence.* Small and restricted animal populations, especially if adversely affected through human agency, are highly susceptible to natural disasters and to reduction of genetic viability.

The decision to propose endangered status for the Brother's Island tuatara was based on an assessment of the best available scientific information, and of past, present, and probable future threats to this species. It occurs in very small numbers in a highly restricted range and is vulnerable to a variety of problems. If this reptile is not given appropriate recognition and protection, extinction will become more likely. Critical habitat is not being proposed, as such designation is not applicable to foreign species.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened pursuant to the Act include recognition, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages conservation measures by Federal, international, and private agencies, groups, and individuals.

Section 7(a) of the Act, as amended, and as implemented by regulations at 50 CFR Part 402, requires Federal agencies to evaluate their actions that are to be conducted within the United States or on the high seas, with respect to any species that is proposed or listed as endangered or threatened and with respect to its proposed or designated critical habitat (if any). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a proposed Federal action may affect a listed species, the responsible Federal agency must enter

into formal consultation with the Service. No such activities are currently known with respect to the species covered by this rule.

Section 8(a) of the Act authorizes the provision of limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered species in foreign countries. Sections 8(b) and 8(c) of the Act authorize the Secretary to encourage conservation programs for foreign endangered species and to provide assistance for such programs, in the form of personnel and the training of personnel.

Section 9 of the Act, and implementing regulations found at 50 CFR 17.21, set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered wildlife. It also is illegal to possess, sell, deliver, transport, or ship any such wildlife that has been taken in violation of the Act. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance propagation or survival, or for

incidental take in connection with otherwise lawful activities.

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, comments and suggestions concerning any aspect of this proposed rule are hereby solicited from the public, concerned governmental agencies, the scientific community, industry, private interests, and other parties. Comments particularly are sought concerning the following:

- (1) biological, commercial, or other relevant data concerning any threat (or lack thereof) to the subject species;
- (2) the location of any additional populations of the subject species;
- (3) additional information concerning the distribution of this species; and
- (4) current or planned activities in the involved areas, and their possible effect on the subject species.

Final promulgation of the regulations on the subject species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final decision that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of publication of the proposal, must be in writing, and should be directed to the party named in the above ADDRESSES section.

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined

under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** of October 25, 1983 (48 FR 49244).

Author

The primary author of this proposed rule is Ronald M. Nowak, Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (phone 703-358-1708).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by revising the entry for "Tuatara" under REPTILES to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *
(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
REPTILES							
*	*	*	*	*	*		*
Tuatara	Sphenodon punctatus.	New Zealand	Entire	E	3___	NA	N/A
Tuatara Brother's Island.	Sphenodon guntheri	Zealand (N. Brothers).	Entire	E	3___	N/A	N/A
*	*	*	*	*		*	*

Dated: December 20, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 95-1911 Filed 1-25-95; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 655

[Docket No. 950118018-5018-01; I.D. 111494E]

Atlantic Mackerel, Squid, and Butterfish Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed initial specifications for the 1995 Atlantic mackerel, squid, and butterfish fisheries; request for comments.

SUMMARY: NMFS proposes initial specifications for the 1995 fishing year for Atlantic mackerel, squid, and butterfish. Regulations governing this

fishery require NMFS to publish specifications for the upcoming fishing year and provide an opportunity for the public to comment. This action is intended to fulfill this requirement and promote the development of the U.S. Atlantic mackerel, squid, and butterfish fisheries.

DATES: Public comments must be received on or before February 27, 1995.

ADDRESSES: Copies of the draft Environmental Assessment are available from the Northeast Regional Office, National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930. Copies of the Mid-Atlantic Fishery Management Council's quota paper and recommendations are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

Comments should be sent to Jon C. Rittgers, Acting Regional Director, National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930. Please mark the envelope "Comments—1995 SMB specifications."

FOR FURTHER INFORMATION CONTACT: Myles Raizin, 508-281-9104.

SUPPLEMENTARY INFORMATION:

Regulations implementing the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) prepared by the Mid-Atlantic Fishery Management Council (Council) appear at 50 CFR part 655. These regulations require NMFS to publish a document specifying the initial annual amounts of the initial optimum yield (IOY) as well as the amounts for allowable biological catch (ABC) domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and total allowable levels of foreign fishing (TALFF) for the species managed under the FMP. No reserves are permitted under the FMP for any of these species. Regulations implementing Amendment 4 to the FMP allow the Council to recommend specifications for these fisheries for up to three consecutive years. Procedures for determining the initial annual amounts are found in § 655.22.

The following table contains the proposed initial specifications for Atlantic mackerel, *Loligo* and *Illex* squids, and butterfish for 1995. These specifications are based on the recommendations of the Council.

PRELIMINARY INITIAL ANNUAL SPECIFICATIONS FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FOR THE FISHING YEAR JANUARY 1 THROUGH DECEMBER 31, 1995

[mt]

Specifications	Squid		Atlantic mackerel	Butterfish
	Loligo	Illex		
Max OY ¹	44,000	30,000	² N/A	16,000
ABC ³	36,000	30,000	850,000	16,000
IOY	36,000	30,000	⁴ 100,000	10,000
DAH	36,000	30,000	⁵ 100,000	10,000
DAP	36,000	30,000	50,000	10,000
JVP	0	0	35,000	0
TALFF	0	0	0	0

¹ Max OY as stated in the FMP.

² Not applicable; see the FMP.

³ IOY can rise to this amount.

⁴ This specification may be increased to 134,000 mt, the long-term potential catch for the Atlantic mackerel fishery.

⁵ Contains 15,000 mt projected recreational catch based on the formula contained in the regulations (50 CFR part 655).

Atlantic Mackerel

The FMP provides that ABC in U.S. waters for the upcoming fishing year is that quantity of mackerel that could be caught in U.S. and Canadian waters minus the estimated catch in Canadian waters, while still maintaining a spawning stock size in the year following the year for which catch estimates and quotas are being prepared, equal to or greater than 600,000 mt. Using an estimated spawning stock biomass of 1,500,000 mt and an estimated Canadian catch of 50,000 mt, the ABC is 850,000 mt.

The proposed IOY for the 1995 Atlantic mackerel fishery is set at 100,000 mt, equal to the specified DAH. The proposed specification for DAH is computed by adding the estimated recreational catch, the proposed specified DAP, and the proposed specified JVP. The recreational component of DAH is estimated at 15,000 mt using the formula found at § 655.21(b)(2)(ii). The DAP and JVP components of DAH have historically been estimated using the Council's annual processor survey. However, for the years 1993 and 1994, response was

low and did not contain projections from the large, known processors. In addition, inquiries regarding the utilization of displaced Alaskan freezer trawlers and New England groundfish trawlers for possible entry into the Atlantic mackerel fishery have led the Council to recommend no change to the DAP and JVP for the 1995 fishery. It is generally agreed that joint ventures have had a positive impact on the development of the U.S. Atlantic mackerel fishery and should be encouraged.